

CHAPTER 134
CERTIFICATION OF GROUNDWATER PROFESSIONALS AND
UNDERGROUND STORAGE TANK (UST) COMPLIANCE INSPECTORS

PART A
CERTIFICATION OF GROUNDWATER PROFESSIONALS

567—134.1(455G) Definition. A “groundwater professional” is a person who provides subsurface soil contamination and groundwater consulting services, or who contracts to perform or who supervises remediation or corrective action services at leaking underground storage tank sites. A person who engages only in installation or removal of underground storage tanks and piping is not a “groundwater professional” for the purposes of this chapter.

567—134.2(455G) Certification requirements.

134.2(1) A groundwater professional must be certified as provided in 134.3(455G) before engaging in activities described in 134.1(455G), except that a person engaging in activities described in 134.1(455G) need not be certified if that person is under direct supervision of a certified groundwater professional when engaging in such activities.

134.2(2) In order to be certified as a groundwater professional, a person must be one or more of the following:

- a.* A person certified by the American Institute of Hydrology as a Professional Hydrologist, Professional Hydrogeologist, or Professional Hydrologist (Groundwater).
- b.* A person certified by the National Water Well Association or Association of Groundwater Scientists and Engineers as a Groundwater Professional.
- c.* A person certified by the American Board of Industrial Hygiene as an Industrial Hygienist.
- d.* A professional engineer registered in Iowa.
- e.* A professional geologist certified by a national organization (e.g., American Institute of Professional Geologists, American Association of Petroleum Geologists, Society of Independent Earth Scientists).
- f.* Any person with five years of direct or related experience and training as a groundwater professional or in the field of earth sciences. This must include a minimum of at least two years of education and training, and two years of experience as a groundwater professional.
- g.* Any person with a license, certification, or registration to practice hydrogeology or groundwater hydrology issued by any state in the United States or by a national organization, provided that the license, certification, or registration process requires, at a minimum, both of the following:

- (1) Possession of a bachelor’s degree from an accredited college.
- (2) Five years of related professional experience.

134.2(3) In order to be certified as a groundwater professional, the applicant must complete the two-day risk-based correction action (RBCA) course and pass a certification examination offered or authorized by the department.

- a.* An applicant who fails an initial examination may take a second examination.
- b.* Failure of the second examination will result in termination of the application. A person may reapply for groundwater professional certification. The applicant must complete a regularly scheduled course of instruction before retaking the certification examination.
- c.* Professional engineers who qualify for an exemption from taking the certification examination under subrule 134.3(6) must attend the RBCA initial course of instruction in order to be certified.

567—134.3(455G) Certification procedure.

134.3(1) Application. Application for certification shall be made by completing a form provided by the department and submitting evidence of meeting the requirements found in rule 134.2(455G) (i.e., copy of certificate, license, description of experience and training).

134.3(2) Certification fee. The initial certification and each renewal application must be accompanied by a nonrefundable fee in the form of a check or money order payable to the Department of Natural Resources. The certification fee is \$200 every two years and must be renewed biennially by January 1 of each even-numbered year (i.e., 1994, 1996, etc.). No proration of certification fees will be done. The department will assess a fee for each training course and examination, based upon the cost of preparation and administration.

134.3(3) Rescinded IAB 1/9/02, effective February 13, 2002.

134.3(4) Certification issuance and renewal.

a. Upon receipt, review and acceptance of the application and certificate fee, the department shall furnish the applicant with a certificate showing the name of the individual and the expiration date.

b. In order to remain valid, a groundwater professional certificate must be renewed prior to the expiration date specified on the certificate. Renewal applications must be made on a form provided by the department and must be received by the department or postmarked at least 60 days prior to the expiration date of the registration or certification then in effect. The renewal application must be accompanied by the registration or certification fee specified in subrule 134.3(2) and proof of completing the continuing education requirements in 134.3(5).

134.3(5) Continuing education. All groundwater professionals are required to complete at least 12 hours of continuing education during each two-year certification period.

a. The initial course of instruction required in subrule 134.2(3) may be applied toward the first certification period's continuing education requirements. Continuing education credits may not be carried forward to the next certification period.

b. Continuing education must be in the areas relating to underground storage tank contamination assessment and corrective action activities. Courses other than those provided by the department must be submitted to the department for prior approval as meeting the continuing education requirement.

134.3(6) Exemption from examination. The department may provide for an exemption from the certification examination requirements for a professional engineer registered pursuant to Iowa Code chapter 542B upon submission of sufficient proof of exemption to the Iowa comprehensive petroleum underground storage tank fund board as provided in Iowa Code section 455G.18(8). The person must be qualified in the field of geotechnical, hydrological, environmental, groundwater, or hydrogeological engineering. A groundwater professional exempted under this provision must meet the continuing education requirements of subrule 134.3(5).

567—134.4(455G) Suspension, revocation and denial of certification.

134.4(1) General policy. It is the policy of the department to enforce standards of professional and ethical conduct which are generally accepted within the professions which qualify persons for certification in Iowa as groundwater professionals. The department intends to rely on written standards of professional and ethical conduct and competency which are applicable to persons who qualify for certification by virtue of certification by or membership in a professional organization or state licensure as provided in Iowa Code section 455G.18(2).

It is the policy of the department to investigate and enforce standards of conduct by certified groundwater professionals which fall within the scope of their professional relationships with the department, their clients and other state regulatory agencies including the Iowa comprehensive petroleum underground storage tank fund board and their agents.

134.4(2) *Lack of qualification.* The department may suspend, revoke or deny certification as a groundwater professional for any of the following reasons:

- a. A material misstatement of fact in an application for certification.
- b. Failure to provide the fee for certification.
- c. Loss of license, certification, or registration necessary to meet the certification requirements in subrule 134.2(2).
- d. Insufficient proof of qualifications required under rule 134.2(455G).
- e. Failure to successfully complete the certification requirements.
- f. Receipt of a “certificate of noncompliance” with a child support obligation and failure to provide a “withdrawal of a certificate of noncompliance” from the child support recovery unit as provided in Iowa Code chapter 252J.
- g. Default on an obligation owed to or collected by the state as provided in Iowa Code section 421.17(34) “e.”

134.4(3) *Discipline based on a single act or omission.* The department may suspend, revoke or deny certification based on substantial evidence of a single act or failure to act. The severity of the sanction may be based on the gravity of the act or omission and on the degree of culpability such as whether it was negligent, knowing, willful, or with such a degree of reckless disregard as to equate with intentional conduct. Single acts or omissions that may be grounds for discipline include, but are not limited to, the following:

- a. Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.
- b. Violation of an ethical standard which the person knew or should have known and which results in or reasonably could have resulted in material consequences.
- c. Failure to report the presence of contamination to the parties reasonably believed to be responsible for reporting the contamination to the department as provided in 567—Chapter 131 and 567—135.6(455B).
- d. Knowingly making a material false statement, representation or certification on any application, record, report, or document required to be maintained or submitted by department rule or which is voluntarily submitted to the department.
- e. Gross incompetence in the performance of groundwater professional services and corrective action.
- f. Material misstatement of facts or misrepresentation of information required to be provided pursuant to Iowa Code chapters 455G and 455B, division IV, part 8.

134.4(4) *Discipline based on repeated acts or omissions.* The department may suspend, revoke or deny certification, based on substantial evidence of repeated acts or omissions which, when taken together indicate a lack of competency, professionalism, ethical conduct, or adherence to standards of performance generally expected by the profession. The severity of the sanction may be based on the gravity of the acts or omissions and the degree of culpability. Disciplinary sanctions under this subrule will not be applied without providing the person with at least one written notice of the deficiency and a written warning that future repetition may result in discipline. Conduct or omissions which may be a basis for discipline include but are not limited to the following:

- a. Repeated incidents of substandard field investigation may result in suspension or revocation.
- b. Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions may result in suspension or revocation.
- c. Conduct warranting a sanction after prior suspension shall result in a more severe sanction.

134.4(5) Disciplinary procedure.

a. Prior to issuance of a final department action imposing a disciplinary sanction of suspension, revocation or denial of certification, the department shall conduct such lawful investigation as it deems necessary to substantiate material facts sufficient to warrant a disciplinary sanction. The decision to impose a disciplinary sanction shall be made by the administrator of the environmental protection division.

b. Written notice of a sanction shall be sent by restricted certified mail to the person against whom the sanction is imposed. The notice shall provide a brief explanation of the facts relied upon and the sanction to be imposed. The notice shall inform the recipient of applicable appeal rights.

c. A person may appeal a decision imposing a suspension, revocation or denial of certification within 30 days of receipt of the notice. Upon timely receipt of the notice of appeal, contested case procedures, including informal settlement, shall apply as provided in 561—Chapter 7. In accordance with 561—subrule 7.5(2), the department shall initiate pleading by the filing of a petition.

d. Notwithstanding 561—subrule 7.15(7), the sanction imposed shall not take effect until after a contested case hearing and issuance of a proposed decision. If a timely appeal has not been filed, the sanction is effective after 30 days from receipt of the notice. A party may request stay of the sanction, as provided in 561—subrule 7.15(7), after issuance of a proposed decision.

134.4(6) Noncompliance with support order procedures. Upon receipt of a certification of noncompliance with a support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal, or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue a notice by restricted certified mail to the person of its intent to deny or suspend groundwater professional certification based on receipt of a certification of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4) “c.” Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

567—134.5(455G) Penalty. A groundwater professional who fails to obtain certification with the department of natural resources as required in this chapter is subject to a civil penalty of \$50. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in a mistaken classification of a site shall be guilty of a serious misdemeanor and shall have the groundwater professional certification revoked.

These rules are intended to implement Iowa Code section 455G.18.

PART B
CERTIFICATION OF UST COMPLIANCE INSPECTORS

567—134.6(455B) Definition.

“*UST compliance inspector*” means a person who inspects a regulated underground storage tank (UST) to satisfy the requirements of 567—135.20(455B) for compliance with UST technical standards in 567—Chapter 135.

567—134.7(455B) Certification requirements for UST compliance inspectors. A person retained by an owner or operator of an UST facility for the purpose of establishing compliance with the annual UST compliance inspection required by the department under 567—135.20(455B) must hold a current UST compliance inspector certification issued by the department. Inspector certification will be issued by the department only to a person who:

1. Is an Iowa-licensed UST installer or installation inspector under 591—Chapter 15, except that the requirement as set forth under 591—subrule 15.3(4) shall not be applicable to a certified UST compliance inspector.
2. Attends the required training approved by the department as provided in 567—134.10(455B).
3. Achieves a passing grade of 85 percent on a certification examination administered or approved by the department as provided in 567—134.10(455B).
4. Submits an accurate and complete application.
5. Is not found to be in violation of this chapter and has not had a certification revoked by the department pursuant to 567—134.16(455B) or by the underground storage tank fund board pursuant to 591—Chapter 15.

567—134.8(455B) Temporary certification.

134.8(1) Until training and testing procedures are developed, the department may issue a temporary inspector certification to any person who:

- a. Is an Iowa-licensed installer or installation inspector as provided in 567—134.7(455B), numbered paragraph “1.”
- b. Completes the U.S. EPA UST Web-based training modules: “Introduction to the Underground Storage Tanks (UST) Program” and “Basic UST Inspector Training” with a minimum passing grade of 85 percent.

134.8(2) A person issued a temporary UST compliance inspector certification must complete the approved training and pass the examination in accordance with 567—134.10(455B) by April 1, 2007. Failure to achieve a passing grade on the examination before April 1, 2007, will result in revocation of temporary certification.

567—134.9(455B) Application for inspector certification.

134.9(1) The applicant shall be an individual.

134.9(2) An applicant for inspector certification shall submit, in addition to all applicable fees, an application on forms provided by the department. The application shall contain the following information:

- a. Evidence that the applicant meets the experience and qualification prerequisites contained in 567—134.7(455B).
- b. The applicant’s name, address and telephone number.
- c. Other information necessary for a determination of the applicant’s qualifications.

134.9(3) Training and certification fees. An initial nonrefundable application fee of \$150 in the form of a check or money order payable to the Department of Natural Resources must accompany the initial application for certification and \$50 for each renewal application. The \$150 application fee covers the cost of the certification examination. The department will assess an additional fee for each training course based upon the cost of administration.

134.9(4) An application for certification must be received by the department no later than 60 days prior to the announced date of the certification examination.

134.9(5) An application must be complete upon submission.

134.9(6) An applicant meeting the requirements of this rule will be granted admission to the examination for inspector certification.

567—134.10(455B) Training and certification examination.

134.10(1) Prior to taking the compliance inspector examination, the applicant must:

a. Complete the U.S. EPA UST Web-based training modules: “Introduction to the Underground Storage Tanks (UST) Program” and “Basic UST Inspector Training” with a minimum passing grade of 85 percent.

b. Attend the department’s inspector training course or designated approved course.

134.10(2) The department will establish administrative and technical content for the examination and the standards and criteria against which the department will evaluate candidates in determining the fitness of candidates for inspector certification.

134.10(3) At least once in each calendar year, the department will schedule a date and location for the examination for certification of inspectors.

134.10(4) Only applicants who have been authorized by the department to take an examination will be admitted to an examination or issued a certification as a result of passing an examination. Authorization to take an examination will be based on the applicant’s compliance with the requirements of this chapter.

134.10(5) To receive a passing grade on the examination, the applicant for certification must achieve a minimum score of 85 percent. An applicant who fails an initial examination may take a second examination.

134.10(6) The application of an applicant who fails the second examination will be terminated. An applicant who fails the second examination may reapply for inspector certification but may not retake the examination until the applicant has successfully completed a regularly scheduled course of instruction that is administered or approved by the department. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the department for the approved training course.

567—134.11(455B) Renewal of certification.

134.11(1) *Renewal period.* Certification shall be for a two-year period and must be renewed by January 1 of each odd-numbered year, beginning January 1, 2009. Applications for renewal must be submitted on a form provided by the department and no later than 60 days prior to the expiration date. If a certified inspector fails to renew the certification by the expiration date, the department may grant, upon a showing of good cause, a 30-day grace period during which the applicant may submit the application and payment of the renewal fee as provided in 134.9(3).

134.11(2) *Continuing education.* Certified inspectors must successfully complete eight hours of training approved by the department to maintain certification.

134.11(3) *Minimum inspections.* In order to renew certification, an inspector must have conducted at least 25 compliance inspections each year.

567—134.12(455B) Professional liability insurance requirements. All certified compliance inspectors are required to have professional liability insurance with minimum liability limits of \$1 million per occurrence and in the aggregate. All persons covered by the certification provisions of this chapter shall provide written proof of coverage upon request of the department.

567—134.13(455B) Licensed company. A company employing certified UST compliance inspectors shall be registered with the department as a licensed UST compliance company. A company shall lose its license if it fails to employ at least one certified inspector or if it employs uncertified individuals to do compliance inspections required by the department. The annual license fee is \$50.

567—134.14(455B) Compliance inspection. The UST compliance inspector shall conduct a compliance inspection in accordance with the standards set out in this rule and with department written instructions and guidelines. The inspector shall notify the department of the date of a site inspection at least ten days prior to the inspection or another time frame approved by the department.

134.14(1) Inspection process. The inspector shall record the inspection on a form provided by the department and conduct the inspection to address all items contained on the inspection form. The department may approve an alternative inspection form if requested by the inspector. The completed inspection form must be maintained by the inspector or licensed company for five years. Upon completion of the site inspection, the inspector shall send an inspection report to the owner and operator within ten business days, except for the notice of a potential suspected or confirmed release as provided in paragraph “b.” At a minimum, the report shall satisfy the following:

a. The inspector shall notify the owner and operator of any compliance violations or deficiencies and those specific actions necessary to correct the violations or deficiencies in accordance with 567—Chapter 135.

b. The inspector shall immediately upon discovery notify the owner and operator of a suspected release as provided in 567—135.6(455B). The notice shall advise the owner and operator of their duty to report the condition to the department within 24 hours or within 6 hours if a hazardous condition exists as defined in 567—131.1(455B) and of their duty to take necessary steps to investigate and confirm suspected releases within the time frames specified in 567—135.6(455B). The inspector shall record in the inspection report submitted to the department the date and time of the notice to the owner and operator.

c. The inspector shall notify the owner and operator of applicable time frames to correct violations or deficiencies if established by rule, or within 60 days of receipt of the inspection report or another reasonable time period approved by the department.

d. The inspector may enter the initial site inspection results electronically as provided in 134.14(2) and complete a follow-up final electronic report as provided below or wait until completion of the follow-up activities to submit a final electronic report. In either case, a final electronic report shall be submitted to the department and a copy provided to the owner and operator as provided in 134.14(2), within the following time frames:

(1) Within 10 business days of the inspection, if the results of the inspection find no violations or deficiencies requiring corrective action.

(2) Within 10 business days of the inspector’s receipt of all necessary documentation of all action required to correct violations and deficiencies.

(3) In any case, no later than 90 days of the site inspection.

134.14(2) Electronic inspection reporting. The inspector shall prepare an electronic report in accordance with the following:

a. The inspector shall enter the results of the site inspection discovered at the time of the inspection and any actions taken to correct violations and deficiencies on an Internet-based electronic format developed by the department and in accordance with guidance. The department’s software will be capable of generating an inspection report.

b. The department will develop a generally compatible electronic platform using XML language. The department will provide the XML schema file format to describe the data needed to allow an inspector to transfer multiple site inspection results in an electronic batch process over the Internet using the department’s inspection Web site.

c. The inspector shall provide a print copy of the electronically generated inspection report to the owner and operator or an alternative report approved by the department.

134.14(3) Any evidence of violations or deficiencies observed during the inspection must be photographed using a digital camera with at least a 1-2 megapixel resolution. The digital photographs must be submitted as part of the electronic inspection report and maintained by the inspector for five years as part of the inspector's records.

134.14(4) The inspector must provide any inspection records provided by the owner and operator to the department upon request.

134.14(5) Inspection technical requirements. An inspector of an UST system must check for compliance with the technical standards of 567—Chapter 135 following the department's guidance. The inspection of an UST system currently in operation shall include, but not be limited to, the following:

- a. The material currently stored in the UST.
- b. The type of tank and lines currently at the site as compared to the registered information on the department's database.
- c. Checking site records demonstrating operational compliance, 567—subrule 135.4(5).
- d. Checking release detection records, 567—subrule 135.5(6).
- e. Visually checking for releases or other violations by opening covers of dispensers, manways, and containment sumps for submersible pumps and other piping connections for:
 - (1) Indications of a product release and leaking equipment.
 - (2) Deteriorating product lines or excessive bends in product lines or flex connectors.
 - (3) Proper anchoring of breakaways (dispensers only).
- f. Current operating status of cathodic protection system, if present.
- g. Presence and operational condition of spill and overfill equipment, 567—paragraph 135.3(1) "c."

Any problems observed during the inspection must be photographed using a digital camera with at least a 1-2 megapixel resolution.

567—134.15(455B) Disciplinary actions.

134.15(1) The department may impose disciplinary actions which may include, but are not limited to, notices of deficiency, probationary notices, suspension of a certification or license and, pursuant to 567—134.16(455B), revocation of a certification or license.

134.15(2) A notice of deficiency or probationary notice shall not be an appealable decision. The recipient of a notice may contest the basis for the notice in writing, and such response shall be made part of the certification record. A person subject to a notice to suspend or revoke a certification may appeal the notice as provided in 567—Chapter 7.

134.15(3) The department may suspend the certification of a certified inspector or licensed company for good cause, and based on a single act or omission or repeated acts or omissions. The suspension may require the certified inspector to take remedial measures intended to correct or prevent future acts and omissions. Good cause includes, but is not limited to:

- a. A violation of these rules.
- b. Negligent misrepresentation of material facts in a compliance report.
- c. Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—134.14(455B).
- d. Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.14(455B).
- e. Incompetence on the part of the certified inspector as evidenced by errors in the performance of duties and activities for which the certification was issued.
- f. Repeated failure to submit reports of inspection activities to the department or the owner and operator as provided in 567—134.14(455B).

134.15(4) The suspension of a company license or inspector certification shall prevent the company or person from engaging in activities for which certification or licensure is required.

134.15(5) The department may require that the certified inspector successfully complete a special training program, examination or other remedial measures sponsored or approved by the department and designed to strengthen the specific weakness in the certified inspector's performance of duties as identified in the suspension order.

134.15(6) A certified inspector or licensed company shall immediately surrender the certificate or license, as applicable, to the department as of the effective date of a suspension order. The department may reinstate the certification or license if it is determined the person has satisfied the terms of the suspension order and the certification has not expired.

567—134.16(455B) Revocation of inspector certification or company license.

134.16(1) The department may revoke the inspector certification or company license for one or more of the following:

- a.* Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.
- b.* Fraudulent omissions or misstatements of material facts in a compliance inspection report or in other written or oral communications with the department.
- c.* A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards as part of a compliance inspection required by 567—135.20(455B).
- d.* Acts or omissions warranting suspension after having certification or license previously suspended.
- e.* The revocation of a certification as an installer or installation inspector under 591—Chapter 15.

134.16(2) A certified inspector or licensed company shall immediately surrender certification or licensing documents after the effective date of a revocation decision.

These rules are intended to implement Iowa Code section 455B.474.

[Filed emergency 8/28/91—published 9/18/91, effective 8/28/91]

[Filed 2/28/92, Notice 9/18/91—published 3/18/92, effective 4/22/92]

[Filed 7/1/94, Notice 3/16/94—published 7/20/94, effective 8/24/94]

[Filed 4/19/96, Notice 1/17/96—published 5/8/96, effective 6/12/96]

[Filed 2/20/98, Notice 11/19/97—published 3/11/98, effective 4/15/98]

[Filed 12/19/01, Notice 10/17/01—published 1/9/02, effective 2/13/02]

[Filed 3/23/06, Notice 11/9/05—published 4/12/06, effective 5/17/06]